

S/N 10/648,589

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Ricky W. Purcell et al.	Examiner:	Jacqueline Papapietro
Serial No.:	10/648,589	Group Art Unit:	3739
Filed:	August 25, 2003	Docket:	1443.054US1
Title:	A FLEXIBLE WRAP FOR SUPPORTING A PORTION OF A BODY		

REPLY BRIEF UNDER 37 C.F.R. § 41.41

MS APPEAL BRIEF - PATENTS
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

This Reply Brief is presented in response to the Examiner's Answer dated October 18, 2007, sent in answer to Appellant's Appeal Brief filed July 12, 2007.

REPLY

Applicant initially notes that the Examiner has added a new ground of rejection. Claims 13 and 15-19 were rejected under 35 U.S.C. 102(b) as being anticipated by Peterson (US 5,538,500).

I. The Examiner states at page 6 of the Examiner's Answer that:

"Regarding claim 13, Peterson discloses a flexible wrap (10) for supporting a portion of a body, the flexible wrap comprising: an elastic band (14) having a first end and a second end; an adhesive layer (28) mounted on said elastic band near said first end to secure said elastic band to a body (column 5 lines 1-6 and lines 41-43), wherein said adhesive layer is adapted to be detachably mounted to skin on the body; a plurality of fingers extending from said second end of said elastic band (16b and 18b), wherein said plurality of fingers are integral with said elastic band and secured to an exposed section of said elastic band (16a and 18a) when the flexible wrap is attached to the body (see Figs 4 and 5); and a plurality of fasteners, wherein each finger includes at least one fastener for securing said plurality of fingers to said exposed section of said elastic band (20 and 22)."

Appellant respectfully traverses the assertion because the tape 28 in Peterson is only described as being in the wound-covering section 14 of the bandage wrap 12, which is not on either end of the bandage wrap 12 (see Fig. 1 and col. 4, line 66 through col. 5, line 18 of Peterson). Appellants are relying on language recited in claim 13 (i. e., "an adhesive layer mounted on said elastic band near said first end").

II. Appellants note that Examiner addresses this issue at page 6 of the Examiner's Answer by stating that:

"Examiner is interpreting the recitation "a first end" to be any portion or the entire portion to the right of the middle of the band, and "a second end" to be any portion or the entire portion to the left of the middle of the band. Therefore, Peterson does disclose an adhesive layer (28) mounted on said elastic band near the first end. Figure 1 of Peterson (below) has been enhanced to show this interpretation."

Appellant respectfully traverses the Examiner's interpretation because the plain language

of claim 13 recites "an adhesive layer mounted on said elastic band near said first end."

Appellants submit that in order for Peterson to anticipate or render obvious claim 13, Peterson must describe where one end 16 of the disclosed bandage wrap 12 is attached to the body using an adhesive while the opposing end 18 of the bandage wrap 12 is attached to an exposed section of the bandage wrap 12.

III. The Examiner further states at page 7 of the Examiner's Answer that "Regarding claim 26, the same interpretation of "one end" and "an opposing end" has been applied." Appellant respectfully traverses the Examiner's assertion because as discussed above, Appellants can not find any description in Peterson that one end 16 of the disclosed bandage wrap 12 is attached to the body using an adhesive while the opposing end 18 of the bandage wrap 12 is attached to an exposed section of the bandage wrap 12. Appellants note that tape 28 in Peterson is only described as being in the wound-covering section 14 of the bandage wrap 12, which is not on either end of the bandage wrap 12 (see Fig. 1 and col. 4, line 66 through col. 5, line 18 of Peterson).

Therefore, Peterson does not describe "attaching one end of an elastic band to skin on the body using an adhesive" in combination with "securing a plurality of fingers that project from an opposing end of the elastic band to an exposed section of the elastic band" as recited in claim 26.

Appellants again note that tape in Peterson is only described as being in the wound-covering section 14 of the bandage wrap 12 (i.e., not on either end of the bandage wrap 12).

IV. The Examiner further states at page 8 of the Examiner's Answer that:

"Regarding claim 15, Peterson discloses a flexible wrap (10) for supporting a portion of a body, the flexible wrap comprising: an elastic band (14); a pack (24) that includes a midsection; and a fastener extending along said midsection of said pack such that said fastener secures said pack to said elastic band (Fig. 1). Examiner has interpreted the term "midsection" to include the entire section that is within the perimeter of the pack. Peterson clearly shows a fastener (24a) extending along the midsection of the pack in Figures 1 and 2."

Appellant respectfully traverse the assertion because Appellants can not find any description in Peterson as to a fastener that extends along a midsection of a pack such that the fastener secures the pack to an elastic band. Appellants note that Peterson only describes

attaching the absorbent pad 24 to the bandage wrap 12 about the absorbent pad's 24 circumference or sides (see Peterson at col. 4, lines 15-18). Therefore, Peterson does not describe "a fastener extending along said midsection of said pack such that said fastener secures said pack to said elastic band" as recited in claim 15.

V. Appellants note that the Examiner somewhat acknowledges this interpretation as part of addressing this issue at page 8 of the Examiner's Answer. The Examiner states that "Alternatively, one might interpret the term "midsection" to only include the sections that are closest to the center of the pack. Using this interpretation, Peterson does not disclose a fastener along the midsection of the pack. However, Peterson does teach that the pack need not be secured to the wrap entirely around its circumference (column 4 lines 15-17)."

VI. The Examiner attempts to overcome the partially acknowledged deficiencies of Peterson by again stating at page 8 of the Examiner's Answer that:

"It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Peterson by placing the adhesive layer so it extends along the midsection of the pack in order to reduce the amount of adhesive needed to secure the pack to the elastic band or to reduce the complexity required during the manufacturing of the invention."

Appellants respectfully traverse these assertions in part because Peterson does not describe a fastener on a midsection of a pack. Appellants also respectfully question the accuracy of statement as Appellants can not see how placing adhesive along the midsection of the pack (i) reduces the amount of adhesive needed to secure the pack to the elastic band or (ii) reduces the complexity required during the manufacturing of the invention as suggested by the Examiner.

Appellants respectfully submit that the only description relating to a flexible wrap as recited in claim 15 is found in Appellants' disclosure. Appellants respectfully direct attention to Appellants' specification at page 3, lines 22-29 and page 10, lines 25-32. These portions of Appellants' specification provide the only objective evidence that positioning the adhesive layer on the midsection of the pack, and orienting the adhesive layer transverse to the lateral edges of the elastic band, minimizes the stress that is generated on the joint between the elastic band and the adhesive layer when the elastic band is stretched as part of being wrapped around the body. The location and orientation of the adhesive layer relative to the elastic band and the pack allows

the pack to be reliably secured to the elastic band without using a pocket formed on the elastic band.

Conclusion

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney at (262) 646-7009 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. Box 2938
Minneapolis, MN 55402
(262) 646-7009

Date Dec. 3, 2007 By 1 Andrew Peret 1
Andrew R Peret
Reg. No. 41,246

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 3rd day of December 2007.

CANDIS BUENDING

Name

Chris Buending
Signature